



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 10/065,865  | 11/26/2002  | John Yupeng Gui      | 121985-1/YOD<br>(GERD:0776) | 3389             |
| 6147  | 7590        | 02/19/2009           | EXAMINER                    |                  |
| GENERAL ELECTRIC COMPANY<br>GLOBAL RESEARCH<br>PATENT DOCKET RM. BLDG. K1-4A59<br>NISKAYUNA, NY 12309 |             |                      | SHIN, JOHN Y                |                  |
|   |             |                      | ART UNIT                    | PAPER NUMBER     |
|   |             |                      | 3687                        |                  |
|   |             |                      | NOTIFICATION DATE           | DELIVERY MODE    |
|   |             |                      | 02/19/2009                  | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ldocket@crd.ge.com  
rosssr@crd.ge.com  
parkskl@crd.ge.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/065,865             | GUI ET AL.          |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | John Shin              | 3687                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 August 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 27-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 27-66 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. *Claims 27-29, 47, and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Breed (2003/0227382).*
3. Regarding claim 27, Breed shows a system for enabling enhanced asset management and tracking capabilities, comprising:

- a plurality of electronic asset identification and intelligent sensing devices,
  - wherein each of the plurality of electronic asset identification devices is affixed to an asset whose location and information are to be managed (paragraph 28),
  - wherein each of the plurality of asset identification and intelligent sensing devices includes at least unique identification information relating to the asset to which it is affixed (paragraphs 43, 110) and at least one sensing element for monitoring environmental or operating conditions (paragraph 33);

- an asset management server computer system for maintaining at least one database containing information regarding the asset identification and intelligent sensing devices and the assets to which they are affixed (paragraph 110:  
*Information from the asset sensors are sent to and stored in the data processing and storage facility 50);*
- a remote client computer system operatively connected to the asset management server computer system for exchanging information over a computer network (paragraph 111: *A shipper 66, port authority 70, or law enforcement entity 68 can all check the status of assets by logging into the data processing and storage facility 50 through the Internet); and*
- at least one interrogation device operatively connected to the remote client computer system, wherein the at least one interrogation device receives information from the plurality of asset identification and intelligent sensing devices and exchanges said information with the remote client computer system (paragraphs 52, 93, 94, 109: *A cell phone or PDA can be used to obtain information from the asset's sensors and transmit it to a remote location. Containers are scanned upon entering a port by both law enforcement and the port authority. This interrogation data is then transmitted via the remote client system to the data processing and storage facility, or "asset management server").*

4. Regarding claim 47, please see the comments regarding claim 27 above. Breed also shows the limitation wherein the plurality of electronic asset identification and intelligent sensing devices include

- at least one sensor element (paragraph 65),
- a processing unit operatively connected to the sensor element (paragraph 65),  
wherein the processing unit includes
  - at least recording, storing and transmitting processing capabilities (paragraph 65),
  - a power supply operatively connected to the processing unit (paragraph 80),
  - a memory operatively connected to the processing unit and the power supply (paragraph 65),
  - a radio frequency transceiver operatively connected to the processing unit and the power supply (paragraph 65), and
  - an antenna operatively connected to the radio frequency transceiver and the power supply (paragraph 103).

5. Regarding claim 28, Breed shows the limitation wherein the plurality of electronic asset management devices include radio frequency identification tags (paragraph 103).

6. Regarding claims 29 and 48, Breed shows the limitation wherein the at least one interrogation device includes a fixed radio frequency identification tag reader (paragraph 103; 44 in Fig. 3A: *In the main embodiment, the RFID readers are fixed onto the container*).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. *Claims 30-32, 36, 39, 49, 50, 55, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of official notice.*

9. Regarding claims 30, 31, 49 and 50, Breed discloses using a portable device, such as a cell phone or PDA, to acquire asset-related data (paragraph 52) but does not expressly show the limitation wherein

- the at least one interrogation device includes a handheld radio frequency identification tag reader; and
- wherein the handheld radio frequency identification tag reader is a handheld computing device.

However, the examiner takes official notice that it is notoriously old and well-known in the art to use a hand-held RFID tag reader, which is also a computing device, as an alternative means for interrogating RFID tags. Because Breed already shows that it is useful to use a portable computing device to acquire asset-related information, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the system and method of Breed by adding the ability to specifically use a hand-held RFID tag reader in order to provide more flexibility when tracking the contents of the containers disclosed by Breed.

Art Unit: 3687

10. Regarding claim 32, Breed discloses a handheld computing device operatively connected to the remote client computer system, wherein the handheld computing device receives information from the plurality of asset identification and intelligent sensing devices and exchanges said information with the remote client computer system (paragraphs 52, 93, 94, 109). Although Breed discloses that examples of such handheld computing devices include PDAs and cell phones, Breed does not expressly show the limitation wherein the remote client computer system *is* the handheld computing device. However, the examiner takes official notice that it is notoriously old and well-known in the art for handheld computing devices such as PDAs and cell phones to act as remote client systems. It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed by adding the ability for the handheld computing device to be the remote client computer system in order to provide decentralized, portable computing systems the ability to monitor asset-related data.

11. Regarding claims 36 and 55, Breed does not expressly show the limitation wherein the remote client computer system is a laptop or notebook style computer system. However, the examiner takes official notice that it is notoriously old and well-known in the art for laptops or notebook style computers to act as remote client computer systems. It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed by adding the ability for the remote client computer system to be a laptop or notebook style computer in order to increase the portability of the remote client computer system.

Art Unit: 3687

12. Regarding claims 39 and 58, Breed shows additional remote client computer systems operatively connected to the asset management server computer system for enabling users to access information contained on the asset management computer system (66, 68, and 70 in Fig. 4; paragraph 110), but does not expressly show enabling users to modify said information. However, the examiner takes official notice that when users are given a means to access information within a system, it is notoriously old and well-known in the art to also allow the users to modify that information. It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed by allowing users of remote client systems the ability to modify information in order to provide a way to manually correct errors found in the data.

---

13. *Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of official notice as applied to claim 58 above, and further in view of Ulrich et al (6,344,794).*

14. Regarding claim 59, Breed does not expressly show the limitation wherein users operating the additional remote client computer systems are provided specialized access depending upon login information received by the asset management server computer system. However, Ulrich shows this limitation (column 11, lines 49-56: *The user of the client computer 40 must log into the server 10 before being able to use the personnel view function*). It would have been obvious to a person having ordinary skill in the art at the

time of the invention to further modify the method of Breed by adding the above limitation taught by Ulrich in order to provide a reliable and efficient means for authenticating users trying to access restricted databases.

---

15. *Claims 33-35 and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of Ulrich et al (6,344,794).*

16. Regarding claims 33 and 51, Breed shows that remote client terminals (66, 68, and 70 in Fig. 4) access the asset management server computer system (50 in Fig. 4) via the Internet, but does not expressly show the limitation wherein the asset management server computer system further comprises at least one web application server computer system for serving a plurality of interactive web pages relating to the asset identification and intelligent sensing devices and the assets to which they are affixed. However, Ulrich shows this limitation (column 1, lines 40-54; column 12, lines 28-33: *The system tracks assets using tags, and this information, located in the location databases, is available through a central server in the form of interactive web pages*). It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the system and method of Breed by adding a web application server computer system for serving a plurality of interactive web pages in order to allow remote clients to easily interface with the asset management system.

17. Regarding claim 34, the following limitations are not expressly shown by Breed but are shown by Ulrich:

Art Unit: 3687

- at least one hypertext transfer protocol server computer system operatively connected to the web application server computer system (10 in Fig. 1: *The central server acts as both the hypertext transfer protocol server and the web application server. Modification of this system to utilize two separate computer system is a matter of design choice and would have been obvious in light of the system disclosed by Ulrich); and*
- at least one authentication server computer system operatively connected to the hypertext transfer protocol server for performing authentication and logon services, wherein the authentication server computer system is further operatively connected to an LDAP directory system for facilitating user login and authentication (column 11, lines 49-56: *The user of the client computer 40 must log into the server 10 before being able to use the personnel view function. Modification of this system to utilize a separate server computer system to control authentication and to use an LDAP directory system for facilitating user login is a matter of design choice and would have been obvious in light of the system disclosed by Ulrich),*
- wherein information exchanges initiated by the remote client computer system result in a first connection between the remote client computer system and the at least one authentication server computer system (column 11, lines 49-56: *As mentioned above, the user of the client computer 40 must log into the server 10 before being able to use the personnel view function).*

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system of Breed by adding the above limitations taught

by Ulrich in order to provide a reliable and efficient means for authenticating users trying to access restricted databases.

18. Regarding claim 53, please see the comments regarding the authentication server computer system in claim 34 above. Ulrich also discloses the limitation wherein the web server application serves different web pages depending upon login information received from the remote client computer system (column 11, lines 49-56: *In the most basic case, if the login information provided is of an unauthorized user, a web page will be shown stating that access is denied, which is different from the web page shown when access is granted*).

19. Regarding claims 35, 52, and 54, the examiner notes that the claim limitations are directed toward a collection of web pages, which Ulrich discloses (column 1, lines 40-54). The intended use of such web pages is given little patentable weight, and the web pages in and of themselves are considered to be non-functional descriptive material and will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP, 2106.

---

20. *Claims 37, 38, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed (2003/0227382).*

21. Regarding claims 37, 38, 56 and 57, Breed shows that a portable device such as a phone or PDA receives information from the plurality of asset identification and intelligent sensing devices and exchanges said information directly with the remote client computer system and asset management server system (paragraphs 52, 93, 94, 109) but does not expressly show the limitation wherein

- information is synchronized between the device and the remote client computer system, such that changes to the information made on the device are translated to the information maintained on the remote client computer system; and wherein
- information is synchronized between the remote computer system and the asset management server computer system, such that changes to the information made on the remote client computer system are translated to the information maintained on the asset management server computer system.

The examiner notes that such a modification, however, would not have affected the system and method of Breed and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Breed. Additionally, applicant has not persuasively demonstrated the criticality of providing these steps of synchronizing information between the interrogation device and the remote client system, and then between the remote client system and the asset management server system versus the steps disclosed by Breed. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

22. *Claims 40, 41, 46, 60, 61, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of Katagishi et al (2003/0120745).*

23. Regarding claims 40 and 60, Breed does not expressly show the limitation wherein the at least one interrogation device further comprises a computer software application resident thereon, wherein the computer software application incorporates one or more instructions for wirelessly determining the presence of a plurality of electronic asset identification and intelligent sensing devices. However, Katagishi shows this limitation (paragraph 19: *The cell phone disclosed by Katagishi is capable of reading RFID tags on products when they are in range. When the cell phone displays product information to the user, it shows that the presence of one or more items was determined.* Although not expressly stated, the cell phone of Katagishi must contain software instructions for carrying out the aforementioned presence determination process. With regards to determining the presence of electronic intelligent sensing devices, Breed discloses that this data is transmittable along with the location data stored on the asset identification devices, see paragraph 40). It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the system and method of Breed by adding the above limitations taught by Katagishi in order to provide more flexibility when gathering information from the electronic asset identification and intelligent sensing devices.

24. Regarding claims 41 and 61, Breed does not expressly show the following limitations, but they are shown by Katagishi:

- one or more instructions for determining whether a selected electronic asset identification and intelligent sensing device is within a range of the interrogation

device (paragraph 19: *The user selects the asset by bringing the information receiving terminal, or “interrogation device”, within the proximity of item of interest. The interrogation device then shows the user that the asset is within range by displaying information about the asset*);

- one or more instructions for indicating the presence of the selected electronic asset identification and intelligent sensing device to the user (paragraph 19: *Successfully displaying information about a selected asset is a form of indicating the presence of that asset*); and
- one or more instructions for enhancing the indication of the presence of the selected electronic asset identification and intelligent sensing device upon increasing proximity to the selected electronic asset identification device (paragraph 19: *When the item of interest is out of range, the information receiving terminal of Katagishi displays no information about the item, thereby indicating to the user that the item is not in range. When the user increases proximity enough to come into range, however, the terminal “enhances the indication of the presence” of the item by actually displaying information about the item*).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed by adding the above limitations taught by Katagishi in order to better facilitate the use of a mobile interrogation device.

25. Regarding claims 46 and 66, Breed in view of Katagishi does not expressly show the limitation wherein the computer software application further comprises one or more

instructions for receiving an indication from the user that a selected asset has been rejected in view of received monitored environmental or operating conditions information. However, in light of the fact that Breed discloses using monitored environmental or operating conditions information to establish liability for damages (paragraph 102), allowing a user to reject an asset based on this information is an obvious variant of the system disclosed by Breed. It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed in view of Katagishi by adding the ability to allow a user to reject an asset based on monitored environmental or operating conditions information in order to facilitate the process of establishing liability for damages.

---

26. *Claims 42-44 and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of Katagishi as applied to claims 40 and 60 above, and further in view of official notice.*

27. Regarding claims 42 and 62, Breed in view of Katagishi shows a graphical display that is used to convey information to the user regarding an interrogated item (Katagishi: Figs. 10 and 13) and an indication that the selected asset has an electronic asset identification and intelligent sensing device affixed thereto (Katagishi: paragraph 19: *The indication is provided by the fact that if an item of interest is not tagged, no information will be displayed. With regards to determining the presence of electronic intelligent sensing devices, Breed discloses that this data is transmittable along with the location data stored on the asset*

*identification devices, see paragraph 40), along with an indication regarding the presence of the affixed electronic asset identification and intelligent sensing device (Katagishi: paragraph 19: Likewise, if an item is tagged, the indication of this will be provided by the fact that information pertaining to that item is displayed. With regards to determining the presence of electronic intelligent sensing devices, Breed discloses that this data is transmittable along with the location data stored on the asset identification devices, see paragraph 40). Breed in view of Katagishi does not expressly show:*

- one or more instructions for displaying asset management and monitored environmental or operating conditions information regarding a selected asset, wherein the asset management and monitored environmental or operating conditions information includes an indication regarding whether the selected asset has been confirmed;
- an indication regarding the storage status of the selected asset; and
- a graphical display of the monitored environmental or operating conditions information.

However, the examiner takes official notice that it is notoriously old and well-known in the art to display information pertaining to the specific functional parameters associated with a given system. Breed already discloses the use of asset identification and intelligent sensing devices in conjunction with one another and their ability to monitor environmental or operating conditions, and Katagishi discloses the use of a mobile device such as a cell phone to interrogate such asset identification and intelligent sensing devices on items. Therefore, it would have been obvious to a person having

ordinary skill in the art at the time of the invention to further modify the system and method of Breed in view of Katagishi by adding the above limitations in order to provide a means to convey to the user of the interrogation device pertinent, asset-related information.

28. Regarding claims 43 and 63, Breed in view of Katagishi shows:

- one or more instructions for scanning the asset location area to identify the presence therein of electronic asset identification devices (Katagishi: paragraph 19: *By displaying information pertaining to an item, the information receiving terminal shows the user that it has scanned and identified the presence of an RFID tag, or “electronic asset identification device”*).

Breed in view of Katagishi does not expressly show:

- one or more instructions for receiving an asset location area description; and
- one or more instructions for determining whether identified electronic asset identification devices correspond to information received from the asset management server computer system.

However, the examiner takes official notice that it is notoriously old and well-known in the art to transfer any form of asset-related information during an electronic asset identification device interrogation process, including an asset location area description. It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed in view of Katagishi by adding the ability to receive an asset location area description in order to increase the specificity of asset information provided to the user of the interrogation device. The

examiner also takes official notice that it is notoriously old and well-known in the art to verify the consistency of information when receiving information from a plurality of sources. In the instant case, Katagishi discloses that its system comprises an information transmitter, or an “electronic asset identification device”, that sends a server access address to an information requesting unit, or an “interrogation device” (paragraph 16). This server access address is then used to download information about the item from said server. In this case, it would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed in view of Katagishi by adding the ability to determine whether an identified electronic asset identification devices correspond to information received from the asset management server computer system in order to increase the user’s confidence in the system by maintaining a consistency of information between the server and the asset identification devices.

29. Regarding claims 44 and 64, Breed in view of Katagishi does not expressly show the limitation wherein the computer software application further comprises one or more instructions for synchronizing local asset management and monitored environmental or operating conditions information with asset management and monitored environmental or operating conditions information received from the asset management server computer system for a selected group of assets. However, the examiner takes official notice that it is notoriously old and well-known in the art to synchronize information across a plurality of information-storing devices within the same system. It would have been obvious to a person having ordinary skill in the art at the time of the invention to

further modify the system and method of Breed in view of Katagishi by adding the above limitation in order to provide all users of the system with the most current and up-to-date information.

---

30. *Claims 45 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed in view of Katagishi as applied to claims 40 and 60 above, and further in view of Radican (6,148,291).*

31. Regarding claims 45 and 65, Breed in view of Katagishi does not expressly show the following limitations, but they are shown by Radican:

- one or more instructions for receiving a user confirmation that a selected asset has been received (column 15, lines 5-10); and
- one or more instructions for receiving exception information relating to the selected asset (column 3, line 66 - column 4, line 3).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Breed in view of Katagishi by adding the above limitations taught by Radican in order to increase the specificity of the asset-related information provided to the user.

***Response to Arguments***

32. Applicant's arguments filed August 29, 2008 have been fully considered but they are not persuasive. The Applicant's assertion that Breed (2003/0227382) fails to qualify as prior art in view of a pending submission of affidavits under 37 C.F.R 1.131 is tantamount to requesting a suspension of action in light of the fact that no such affidavit has been filed. A request that action in an application be delayed will be granted only under the provisions of 37 CFR 1.103, which provides for "Suspension of Action." A petition for suspension of action under 37 CFR 1.103(a) must:

- (A) be presented as a separate paper;
- (B) be accompanied by the petition fee set forth in 37 CFR 1.17(g);
- (C) request a specific and reasonable period of suspension not greater than 6 months; and
- (D) present good and sufficient reasons why the suspension is necessary. If the requirements of 37 CFR 1.103(a) are not met, applicants should expect that their applications, whether new or amended, will be taken up for action by the examiner in the order provided in MPEP § 708, Order of Examination.

See MPEP § 709 for more information.

***Conclusion***

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Shin whose telephone number is (571) 270-3276. The examiner can normally be reached on Monday to Friday, 10:30 am - 7:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Shin  
Patent Examiner, A.U. 3687  
February 12, 2009

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
Unit 3687